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6   UNITED STATES DISTRICT COURT
                          WESTERN DISTRICT OF WASHINGTON
                                    AT TACOMA
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8   SIDNEY ALBERT POTTS,   CASE NO. C19-5541 BHS

9   Petitioner,   ORDER DISMISSING
          v.   PETITIONER'S WRIT OF
10   MIKE OBENLAND,   HABEAS CORPUS

11   Respondent.

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13   This matter comes before the Court on Petitioner Sidney Potts' amended petition

14   for writ of habeas corpus, Dkt. 12, and the Court's order to show cause, Dkt. 25.

15   The Court was advised by staff at Monroe Correctional Complex that Mr. Potts

16   passed away on January 21, 2021 and ordered Respondent to show cause as to why this

17   action should not be dismissed as moot. *Id*. On February 24, 2021, Respondent responded

18   to the order to show cause, agreeing with the Court's reasoning to dismiss the case and

19   explaining that an official death certificate for Mr. Potts has been ordered but not yet

20   received by the Department of Corrections. Dkt. 26.

21   A petition for a writ of habeas corpus should be dismissed as moot if the petitioner

22   passes away during the pendency of proceedings. *See, e.g.*, *Griffey v. Lindsey*, 349 F.3d

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1   1157 (9th Cir. 2003); *Germino v. Marshall*, No. CIV S-08-3010, 2010 WL 5393907, at

2   *1 (E.D. Cal. Dec. 21, 2010) ("I[n] these habeas proceedings the relief sought, i.e.,

3   petitioner's immediate release from custody, is unique to the petitioner himself and

4   cannot be transferred."); *Pennewell v. Carey*, No. 2:06-cv-0598 JKS EFB, 2008 WL

5   1860166, at * 1 (E.D. Cal. Apr. 23, 2008) (citing Fed. R. Civ. P. 25(a)) ("In other words,

6   the claims [are] extinguished upon [a] petitioner's death and no party can be substituted

7   for him.").

8   The Court, therefore, **DECLINES** to adopt Magistrate Judge Brian Tsuchida's

9   Report and Recommendation, Dkt. 22, because of the change in circumstances. The

10   amended petition, Dkt. 12, is **DENIED as moot**.

11   The Clerk shall enter a JUDGMENT and close the case.

12   **IT IS SO ORDERED.**

13   Dated this 25th day of February, 2021.

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16   BENJAMIN H. SETTLE
            United States District Judge

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